

Regular Session, 2010

HOUSE BILL NO. 438

BY REPRESENTATIVE PEARSON

DISTRICTS/HOSPITAL SERVC: Provides relative to permitted investments of foundations created by hospital service districts

1 AN ACT

2 To enact R.S. 33:2956, relative to investments of foundations and similar entities created by
3 the governing bodies of hospital service districts; to authorize and provide relative
4 to investments of such entities; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 33:2956 is hereby enacted to read as follows:

7 §2956. Investments by foundations and similar entities created by hospital service
8 districts

9 A. For purposes of this Section, unless the context clearly indicates
10 otherwise, the following terms shall have the following meanings:

11 (1) "Foundation" means a nonprofit or not-for-profit corporation or other
12 entity created by the board of commissioners or comparable governing body of a
13 hospital service district for the purpose of financial support of the facilities and
14 programs of the hospital service district.

15 (2) "Funds of the foundation" means money or other things of value donated
16 to the foundation to support the facilities, programs, and activities of the hospital
17 service district the foundation was created to support but shall not include any funds
18 donated or provided to the foundation by the district or by any facility or program
19 of the district.

1 (3) "Hospital service district" means a district created by local, special, or
2 general law or created by a parish or municipality pursuant to general law for the
3 purpose of owning and operating health care facilities, including but not limited to
4 hospitals, for the care of persons suffering from illness or disability, administering
5 other activities related to health care provision or promotion, and otherwise
6 promoting or providing health care services to the public.

7 B. Notwithstanding any provision of law to the contrary, any foundation may
8 invest funds of the foundation as provided by law for investment of funds of the
9 Louisiana State Employees Retirement System, including but not limited to R.S.
10 11:263 and 267; however, any such investment may be made only in compliance
11 with rules and regulations established by the board of directors or other governing
12 board of the foundation, in compliance with rules and regulations established by the
13 board of commissioners of the hospital service district, and in compliance with the
14 provisions of R.S. 11:263 and 267 and any other law which provides for investments
15 in which funds of the Louisiana State Employees Retirement System may be
16 invested.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Pearson

HB No. 438

Abstract: Authorizes foundations created by the boards of hospital service districts to invest certain foundation funds in investments in which funds of the LASERS may be invested.

Present law (R.S. 33:2955) provides relative to investments of municipalities, parishes, school boards, and other political subdivisions of the state. Authorizes investment in specified obligations, including various U.S. bonds, obligations, and instruments, certificates and accounts of specified financial institutions, certain mutual or trust fund investments, certain guaranteed investment contracts, investment grade (A-1/P-1) commercial paper of domestic U.S. corporations, BIDCOs as authorized by law, and bonds, debentures, notes, or other evidence of indebtedness issued by the state of Louisiana or any of its political subdivisions, all subject to certain limitations. Requires political subdivisions to develop and adopt an investment policy that details and clarifies investment objectives and the procedures and constraints necessary to reach those objectives subject to certain requirements. Provides that making an investment in violation of present law is an intentional performance of a duty in an unlawful manner and may be prosecuted as provided in present law relative to malfeasance in office (R.S. 14:134).

Proposed law retains present law but, notwithstanding any law to the contrary, authorizes a foundation created by a hospital service district governing body for the purpose of providing financial support of the district's facilities and programs to invest as provided by law for investment by the LASERS, provided the investment is made in compliance with rules and regulations of the foundation's governing board, in compliance with rules and regulations of the board of the district, and in compliance with laws governing LASERS investments. Limits such investment authority to "funds of the foundation" which is defined to exclude funds donated or provided to the foundation by the hospital service district or any of its facilities or programs. "Funds of the foundation" includes money or other things of value donated to the foundation to support the facilities, programs, and activities of the hospital service district the foundation was created to support. "Hospital service district" is defined and includes such districts whether created by or pursuant to local, general, or special law for the purpose of owning and operating health care facilities, including but not limited to hospitals, for the care of persons suffering from illness or disability, administering other activities related to health care provision or promotion, and otherwise promoting or providing health care services to the public.

Proposed law, relative to laws governing LASERS investments, cites without limitation R.S. 11:263 and 267(A).

Present law (R.S. 11:263 & 267(A)), relative to LASERS' and other retirement systems' investments, makes the prudent-man rule applicable to retirement systems. Specifies that such rule requires retirement system fiduciaries and boards acting collectively to act with the care, skill, prudence, and diligence under the circumstances prevailing that a prudent institutional investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Further specifies that this standard requires the exercise of reasonable care, skill, and caution, and is to be applied to investments not in isolation, but in the context of the trust portfolio, and as part of an overall investment strategy, which shall include an asset allocation study and plan for implementation thereof, incorporating risk and return objectives reasonably suitable to that trust. Authorizes LASERS and the other state systems to invest up to 65% of the total portfolio in equities, but requires LASERS and the other state systems to invest an amount equal to at least 10% of the system's total equity portfolio in one or more index funds which seek to replicate the performance of the chosen index or indices. Permits divestiture of indexed funds if the Standard and Poor's 500 Composite Index, including dividend reinvestment, declines by an amount exceeding 10% during the 12-month period immediately preceding such divestment and certain notification of retirement committees is given. After such divestiture, requires reindexing as provided in present law if the Standard and Poor's 500 Composite Index, including dividend reinvestment, increases by an amount exceeding 10%, as compared to the date that the governing authority took official action causing such divestment. Defines "equity" as ownership of a corporation represented by shares that are publicly traded on a recognized exchange, including the National Association of Securities Dealers Automated Quotation. Permits divestiture of holdings in any company having facilities or employees or both in a prohibited nation as defined in present law. (R.S. 11:312(B)(2)).

(Adds R.S. 33:2956)